

NORTHERN TERRITORY OF AUSTRALIA

REVENUE LEGISLATION AMENDMENT ACT 2018

Act No. 14 of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 14 of 2018

An Act to amend the *Mineral Royalty Act*, the *Payroll Tax Act*, the *Petroleum (Submerged Lands) Act*, the *Revenue Units Act*, the *Stamp Duty Act* and the *Gaming Machine Regulations*, and for related purposes

[Assented to 28 June 2018]
[Introduced 3 May 2018]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Revenue Legislation Amendment Act 2018*.

2 Commencement

- (1) Parts 3, 4 and 6 (except sections 34 and 36(3)) are taken to have commenced on 1 May 2018.
- (2) Part 2, Divisions 1 and 2, Part 5, sections 34 and 36(3) and Part 7 commence on 1 July 2018.
- (3) Part 2, Division 3, and Part 8 commence on 1 July 2019.

Part 2 Amendment of Mineral Royalty Act

Division 1 Act amended

3 Act amended

This Part amends the *Mineral Royalty Act*.

Division 2 Changes to eligible expenditures

4 Section 4 amended (Definitions)

(1) Section 4

insert (in alphabetical order)

eligible social infrastructure expenditure, see section 4AB.

(2) Section 4, at the end

insert

Note for section 4

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

5 Sections 4AB and 4AC inserted

After section 4AA

insert

4AB Eligible social infrastructure expenditure

- (1) An amount expended in respect of the design, installation or construction of a building or other physical structure in the Territory that provides social or economic benefits to a community directly affected by a production unit is an eligible social infrastructure expenditure.

Examples for subsection (1)

- 1 An amount expended to repave township roads.*
- 2 An amount expended to construct recreation facilities.*
- 3 An amount expended for architectural plans to build a school for the local community.*

- (2) The following are not eligible social infrastructure expenditures:
- (a) compensation in relation to pastoral land or private land, each as defined in section 8 of the *Mineral Titles Act* – in excess of that reasonably required to be paid for or in respect of the use or disturbance of the land and any improvements on the land as provided by section 107(1) of the *Mineral Titles Act*;
 - (b) compensation in relation to any other land – that would otherwise be required to be paid for or in respect of the use or disturbance of the land and any improvements on the land as provided by section 107(1) of the *Mineral Titles Act* if it were land mentioned in paragraph (a);
 - (c) the costs of negotiating with land holders, unless the amounts were required to be expended in accordance with a law in force in the Territory.
- (3) An eligible social infrastructure expenditure that provides social or economic benefits to a community directly affected by a production unit is taken to be an eligible capital assets expenditure used in relation to the operation of that production unit under this Act, including for calculating:
- (a) a capital recognition deduction; and
 - (b) a net value.

4AC Capital expenditures for resident worker accommodation

- (1) An amount expended in respect of the design, installation, acquisition or construction of accommodation in the Territory for employees, contractors and other workers who work in the Territory and whose principal place of residence is in the Territory is an eligible capital assets expenditure.

Example for subsection (1)

An amount expended to build houses for workers who live and work in the Territory.

- (2) The following are not eligible capital assets expenditures under subsection (1):
- (a) compensation in relation to pastoral land or private land, each as defined in section 8 of the *Mineral Titles Act* – in excess of that reasonably required to be paid for or in respect of the use or disturbance of the land and any improvements on the land as provided by section 107(1) of the *Mineral Titles Act*;

- (b) compensation in relation to any other land – that would otherwise be required to be paid for or in respect of the use or disturbance of the land and any improvements on the land as provided by section 107(1) of the *Mineral Titles Act* if it were land mentioned in paragraph (a);
 - (c) the costs of negotiating with land holders, unless the amounts were required to be expended in accordance with a law in force in the Territory.
- (3) An eligible capital assets expenditure for accommodation under this section that relates to a production unit is taken to be an eligible capital assets expenditure used in relation to the operation of that production unit under this Act, including for calculating:
 - (a) a capital recognition deduction; and
 - (b) a net value.
- (4) An amount may be claimed under this section in a royalty year only to the extent that the employees, contractors and other workers reside in the accommodation during that royalty year.

6 Section 4B amended (Interpretation of operating costs)

- (1) Section 4B, heading

omit

Interpretation

insert

Meaning

- (2) Section 4B(1)(a)

omit

unit,

insert

unit;

(3) After section 4B(1)(j)

insert

(ja) accommodation costs expended for employees, contractors and other workers who:

(i) work solely in the Territory; and

(ii) whose principal place of residence is in the Territory;
and

(4) After section 4B(1)(y)

insert

(ya) travel and ancillary costs expended in respect of employees, contractors and other workers whose principal place of residence is outside the Territory; or

(5) Section 4B(1), at the end

insert

Example for subsection (1)(ya)

An amount expended for flights to move interstate resident employees to the production unit and for their accommodation.

7 Section 4C amended (Interpretation of *capital recognition deduction*)

Section 4C, heading

omit

Interpretation

insert

Meaning

8 Section 12 amended (Royalty return)

Section 12(1)(h)

omit

unit,

insert

unit;

9 Section 20 amended (Amendment of assessment)

- (1) Section 20(2) and (3)

omit

Where

insert

If

- (2) Section 20(2)(a)

omit

where

insert

if

- (3) Section 20(2)(b)

omit

assessment,

insert

assessment;

- (4) Section 20(5)

omit

Notwithstanding subsections (2) and (3), where

insert

Despite subsections (2) and (3), if

10 Section 40 amended (Payment of royalty)

Section 40(2)

omit

Where

insert

If

11 Part X inserted

After section 58

insert

**Part X Transitional matters for Revenue Legislation
Amendment Act 2018**

**59 Transitional matters for *Revenue Legislation Amendment
Act 2018***

- (1) This Act, as in force immediately before 1 July 2018, continues to apply in relation to a royalty year that started before 1 July 2018.
- (2) The amendments made to this Act by Part 2, Division 2 of the *Revenue Legislation Amendment Act 2018* apply in relation to a royalty year that starts on or after 1 July 2018.
- (3) The amendments made to this Act by Part 2, Division 3 of the *Revenue Legislation Amendment Act 2018* apply in relation to a royalty year that starts on or after 1 July 2019.

Division 3 Changes to royalties

12 Section 4 amended (Definitions)

- (1) Section 4, definition ***gross realization***

omit

- (2) Section 4

insert (in alphabetical order)

gross production revenue, see section 4A(1).

gross realisation, see section 4A(1A).

- (3) Section 4, definition **eligible exploration expenditure**,
paragraph (d), after "be payable"

insert

on the basis of net value

13 Section 4A amended

- (1) Section 4A, heading

omit, insert

4A Meaning of *gross production revenue* and *gross realisation*

- (2) Section 4A(1)

omit, insert

- (1) **Gross production revenue**, in relation to a production unit, means the sum of:

- (a) the gross values of saleable mineral commodities produced by the production unit in a royalty year that have been sold or removed without sale from that production unit; and
- (b) any amount received by way of insurance, indemnity or guarantee for, or in respect of, the loss of a saleable mineral commodity from the production unit the value of which, if the loss had not occurred, would have been taken into account in calculating gross production revenue; and
- (c) if, under a law in force in the Territory, the sale or disposition of a saleable mineral commodity from a production unit is prohibited, except to the persons or subject to the conditions as are specified, any amount received as the price or compensation for the mineral commodity.

- (1A) **Gross realisation**, in relation to a production unit, means:

- (a) the sum of:
 - (i) the gross production revenue from the production unit; and
 - (ii) any gain realised on the sale of assets of the production unit; and

(b) less:

- (i) any loss incurred on the sale of assets of the production unit; and
- (ii) any negative net value under section 10, brought forward from previous royalty years, that has been approved.

(3) Section 4A(4)

omit

realization

insert

production revenue or gross realisation

14 Section 4D replaced

repeal, insert

4D Treatment of allowances, deductions, revenues and expenditures

- (1) No deduction or allowance under this Act may be made more than once in respect of any one amount expended, whether for the same royalty year or a different royalty year, despite the amount:
 - (a) falling under more than one head of allowance or deduction under this Act; or
 - (b) being reflected or capable of being reflected in the financial accounts relating to the production unit in more than one form.
- (2) When ascertaining net value or gross production revenue, an item of revenue or expenditure must be classified under the most appropriate provision of this Act, even if it might also be classified under another provision as revenue (including as an amount that reduces the gross value of a saleable mineral commodity) or as expenditure.
- (3) For subsection (2), the items mentioned in section 4B(1)(q) to (zb) are classified as expenditures.

15 Section 5 amended (Secretary to determine certain matters)

- (1) Section 5(2)
- omit*
- Where
- insert*
- If
- (2) After section 5(2)
- insert*
- (3) The Secretary may determine that an amount claimed by a royalty payer to reduce the payer's gross production revenue:
- (a) is more appropriately classified as a deduction under section 10(2); and
- (b) is not to be taken into account in determining the gross production revenue.

16 Section 9A inserted

After section 9

insert

9A Royalty payable

- (1) The royalty payable under section 9 is the greater of:
- (a) 20% of the net value from a production unit in a royalty year, less \$10 000; and
- (b) the percentage of the gross production revenue, from the production unit in a royalty year, that applies to the royalty year as follows:
- (i) 1% for the royalty payer's first royalty year that begins on or after 1 July 2019;
- (ii) 2% for the royalty year that follows the royalty year mentioned in subparagraph (i);

- (iii) 2.5% for each royalty year that follows the royalty year mentioned in subparagraph (ii).

Examples for subsection (1)(b)

- 1 *For a mine that commenced production in 2010 with a royalty year beginning every 1 July, the rate under subsection (1)(b) is 1% for the royalty year starting on 1 July 2019, 2% for the royalty year starting 1 July 2020 and 2.5% for each royalty year afterwards.*
- 2 *For a mine commencing production on 1 January 2020 with a royalty year beginning every 1 January, the rate under subsection (1)(b) is 1% for the royalty year starting on 1 January 2020, 2% for the royalty year starting 1 January 2021 and 2.5% for each royalty year afterwards.*

- (2) The royalty payable under section 9 in a royalty year is nil if the gross production revenue from the production unit in the royalty year is \$500 000 or less.

17 Section 10 amended (Rate of royalty)

- (1) Section 10 heading

omit, insert

10 Net value

- (2) Section 10(1) and (2)

omit, insert

- (2) For calculating the rate of royalty under section 9A(1)(a), the net value from a production unit in a royalty year is calculated in accordance with the following formula:

$$NV = GR - (OC + CRD + EEE + AD)$$

where:

NV is the net value from a production unit in a royalty year.

GR is the gross realisation from the production unit in the royalty year.

OC is the operating costs of the production unit for the royalty year.

CRD is the capital recognition deduction.

EEE is any eligible exploration expenditure.

AD is any additional deduction under section 4CA.

(3) Section 10(5)

omit

Notwithstanding subsection (1), where:

insert

If:

(4) Section 10(5)(b)

omit

unit,

insert

unit;

(5) Section 10(6)(c)

omit, insert

(c) recalculate the net value and, if necessary, the royalty payable
in each relevant royalty year.

(6) Section 10(7)

omit

the purposes of subsection (5),

insert

subsections (5) and (6)

18 Section 12 amended (Royalty return)

After section 12(2)(b)

insert

(ba) a calculation of gross production revenue; and

19 Sections 18 and 19 replaced

repeal, insert

18 Assessment

- (1) The Secretary must assess the following in respect of the royalty year to which the statement delivered under section 12 relates:
 - (a) the net value;
 - (b) the gross production revenue;
 - (c) the royalty payable by the royalty payer.
- (2) To make the assessment, the Secretary may use any information in the Secretary's possession, whether or not obtained under this Act.

19 Default assessment

- (1) The Secretary may assess the net value and gross production revenue from a production unit on which, in the Secretary's opinion, royalty ought to be levied if:
 - (a) the royalty payer fails to deliver the statement required under section 12; or
 - (b) the Secretary is not satisfied that a statement delivered by the royalty payer is a full and accurate statement; or
 - (c) the Secretary is of the opinion that the amount stated by the royalty payer to be the gross value of a saleable mineral commodity is not reasonable.
- (2) If the Secretary is of the opinion that the amount stated by the royalty payer to be the gross value of a saleable mineral commodity is not reasonable:
 - (a) the Secretary must, in assessing the net value and gross production revenue, by written notice to the royalty payer, declare the amount the Secretary considers to be a reasonable gross value for the mineral commodity concerned; and
 - (b) the net value and gross production revenue must be assessed by reference to the gross value declared under paragraph (a).
- (3) The amount assessed under this section is taken to be the net value or gross production revenue, as the case may be, on which royalty is payable.

20 Section 20 amended (Amendment of assessment)

Section 20(4)

omit, insert

- (4) Despite subsections (2) and (3), if an assessment for a royalty year is based on an estimate of the value of a saleable mineral commodity sold or removed without sale in that year from a production unit because the value was not ascertainable at the end of that year, the Secretary may, any time within 3 years after ascertaining the value of that mineral commodity, amend the assessment on the basis of that value, to ensure the completeness and accuracy of the assessment.

21 Section 40 amended (Payment of royalty)

Section 40(1)(a)

omit, insert

- (a) not later than 30 days after the end of each 6-month period in the royalty year for which the royalty is payable, the amount estimated by the royalty payer to be the royalty payable under section 9A for that period; and

Part 3 Amendment of Payroll Tax Act**22 Act amended**

This Part amends the *Payroll Tax Act*.

23 Part 11, Division 4 inserted

After section 118

insert

Division 4 Transitional matters for Revenue Legislation Amendment Act 2018**119 Transitional matters for *Revenue Legislation Amendment Act 2018***

- (1) The amendments made to this Act by the *Revenue Legislation Amendment Act 2018* apply to:
- (a) wages paid on or after 1 May 2018, except wages payable before that date; and

(b) wages payable on or after 1 May 2018.

- (2) This Act, as in force immediately before 1 May 2018, continues to apply to wages paid or payable before 1 May 2018.

24 Schedule 2 amended (Territory specific provisions)

- (1) Schedule 2, clause 2

insert (in alphabetical order)

baseline count, see clause 20A.

resident employee, see clause 20A.

- (2) Schedule 2, after clause 20

insert

Division 4 Hiring resident employees

20A Definitions

In this Division:

baseline count, in respect of an employer, means the total number of resident employees employed by the employer on 30 April 2018.

resident employee means an employee whose principal place of residence is in the Territory.

20B Relocating or replacing employees with resident employees on or after 1 May 2018

- (1) Wages are exempt wages if:
- (a) the wages are paid or payable to a resident employee; and
 - (b) the resident employee was an employee of the employer on 30 April 2018; and
 - (c) the resident employee formerly resided outside the Territory but relocated to a principal place of residence in the Territory on or after 1 May 2018 and before 1 July 2020.

Example for subclause (1)

A fly-in fly-out employee relocates to the Territory on 1 September 2018. The employer can claim the exemption, regardless of the baseline count.

- (2) Wages are exempt wages if:
- (a) the wages are paid or payable to a resident employee; and
 - (b) the resident employee was hired on or after 1 May 2018 and before 1 July 2020; and
 - (c) the resident employee was hired to replace a former employee whose principal place of residence was outside the Territory; and
 - (d) the former employee was an employee of the employer on 30 April 2018; and
 - (e) the replacement occurred within 6 months of when the former employee ceased to be an employee.

Example for subclause (2)

A fly-in fly-out employee, hired before 1 May 2018, ceases to be employed. The position is filled within 6 months by a new employee who lives in the Territory. The employer can claim an exemption, regardless of the baseline count.

20C Hiring new resident employees on or after 1 May 2018

- (1) Wages are exempt wages if:
- (a) the wages are paid or payable to a resident employee; and
 - (b) the resident employee was hired on or after 1 May 2018 and before 1 July 2020.
- (2) The number of resident employees for which the exemption under subclause (1) is available in a month is limited to the number of resident employees, calculated on the last day of the month, that exceeds the baseline count, less the number of any resident employees mentioned in clause 20B.

Example for clause 20C

An employer had 50 resident employees on 30 April 2018 (baseline count). None of the resident employees were of the kind mentioned in clause 20B. In May 2018, 3 resident employees resigned and were replaced by 4 more resident employees. Under this clause the exemption is only available for 1 of those 4 resident employees.

20D Other conditions

- (1) The exemptions under this Division are available only in respect of wages paid or payable during the 2-year period beginning on the date the resident employee's wages first became eligible for the exemption.

Example for subclause (1)

If a resident employee is hired on 1 September 2018 and the wages are eligible for the exemption, the exemption is available only until 31 August 2020.

- (2) The exemptions under this Division apply in relation to:
- (a) a full-time employee; and
 - (b) a part-time employee; and
 - (c) a person taken to be an employee under Part 3, Division 7 of this Act.
- (3) The exemptions under this Division do not apply in relation to:
- (a) a casual employee; or
 - (b) a person taken to be an employee under Part 3, Division 8 of this Act.

20E Record keeping

An employer wishing to claim an exemption under this Division must obtain and keep sufficient records to satisfy the requirements for the claim.

Note for clause 20E

Section 79 of the Taxation Administration Act requires these records to be kept for at least 5 years unless the Commissioner authorises earlier destruction.

20F Power to vary or refuse

- (1) The Commissioner may make an order under subclause (2) if satisfied that:
- (a) despite the appearance of an increase in the number of resident employees after 30 April 2018, in substance, no material change in that number occurred; or
 - (b) the claim, the baseline count or other information on which a claim is made is not based on an accurate reflection of the employer's situation or the circumstance of the employer's employees; or

-
- (c) the claim is not justified by any material benefit to the employment of resident employees; or
 - (d) the structure of the employer's business has significantly changed since 30 April 2018.
- (2) The Commissioner may, by order:
- (a) vary or refuse, in whole or in part, a claim for the exemption; or
 - (b) vary the baseline count for an employer, or allocate baseline counts among employers.

20G Guidelines

- (1) The Commissioner may issue written guidelines about exemptions and other matters under this Division.
- (2) A guideline may be of general or specific application.
- (3) A claim for an exemption is taken to be a valid claim to the extent that it complies with the guidelines in force under this clause.
- (4) A guideline does not affect:
 - (a) the exercise by the Commissioner of a power under this Act; or
 - (b) the right of a person to have the Commissioner exercise a power under this Act.

Part 4 Amendment of Petroleum (Submerged Lands) Act

25 Act amended

This Part amends the *Petroleum (Submerged Lands) Act*.

26 Section 93 repealed (Exemption from stamp duty)

Section 93

repeal

Part 5 Amendment of Revenue Units Act

27 Act amended

This Part amends the *Revenue Units Act*.

28 Section 4 amended (Indexation of monetary value of revenue unit)

(1) Section 4(1) and (2)

omit, insert

(1) The monetary value of a revenue unit:

(a) is \$1.18 until 30 June 2019; and

(b) for the financial year commencing on 1 July 2019, or a subsequent financial year, is the amount calculated in accordance with the formula in subsection (2) and as provided by subsections (3) and (4).

(2) The formula is:

$$A = B \times \left[\text{the greater of } \frac{C}{D} \text{ and } 1.03 \right]$$

where:

A is the monetary value of a revenue unit for the financial year for which the calculation is made.

B is the monetary value of a revenue unit for the financial year immediately preceding the financial year for which the calculation is made.

C is the average of the CPI figures for Darwin for each of the 4 quarters of the calendar year immediately preceding the financial year for which the calculation is made.

D is the average of the CPI figures for Darwin for each of the 4 quarters of the calendar year 2 years preceding the financial year for which the calculation is made.

(2) Section 4(4)

omit, insert

(4) Any retrospective change to the method of calculating the CPI figures for Darwin does not retrospectively affect the value of a revenue unit.

29 Section 10 inserted

After section 9

insert

10 Application and transitional matters for *Revenue Legislation Amendment Act 2018*

- (1) The amendments made to this Act by the *Revenue Legislation Amendment Act 2018* apply to a fee or charge incurred on or after 1 July 2018.
- (2) This Act, as in force immediately before 1 July 2018, continues to apply to a fee or charge incurred before 1 July 2018.

Part 6 Amendment of Stamp Duty Act**30 Act amended**

This Part amends the *Stamp Duty Act*.

31 Section 4 amended (Interpretation)

- (1) Section 4(1)

insert (in alphabetical order)

petroleum interest means a lease, licence, permit, interest or other authority issued or granted in the Territory under any of the following:

- (a) the *Petroleum Act*;
- (b) the *Energy Pipelines Act*;
- (c) the *Petroleum (Submerged Lands) Act*;
- (d) any other Act respecting:
 - (i) the conveyance of petroleum by pipeline or the construction or operation of a pipeline to convey petroleum; or
 - (ii) the exploration for, or the recovery or exploitation of, petroleum.

resource interest means a mining tenement or a petroleum interest.

- (2) Section 4(1), definition ***farm-in agreement***
omit (all references)
mining tenement
insert
resource interest
- (3) Section 4(1), definition ***land***, paragraph (b)
omit, insert
(b) a lease of land or an interest in a lease of land; and
(ba) a resource interest or an interest in a resource interest; and
- (4) Section 4(1), definition ***land***, paragraph (c)
omit
all words after "with"
insert
operations conducted, or formerly conducted, on the land in relation to a resource interest).
- (5) Section 4(1), definition ***mining tenement***
omit
resources (such as minerals or geothermal resources) to be
insert
a resource, other than petroleum,
- (6) Section 4(1) definition ***mining tenement***, at the end
insert
*Note for definition ***mining tenement****
A resource found under the surface of the earth includes a mineral or a geothermal resource.

-
- (7) Section 4(1), at the end

insert

Note for subsection (1)

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

32 Section 4A amended (Unencumbered value)

- (1) Section 4A(2)(c), example 2

omit

mining tenement

insert

resource interest

- (2) Section 4A(2)(c), example 2

omit

tenement

insert

resource interest

33 Section 4AB amended (Dutiable value)

Section 4AB(4)(a), after "title"

insert

or a petroleum interest relating to exploration

34 Section 89A amended (Senior, pensioner and carer concession)

- (1) Section 89A(1)(b)(ii)

omit, insert

- (ii) at the relevant time, is the eligible holder of an NT Pensioner and Carer Concession Card or a Northern Territory Concession Scheme Card; or

- (2) Section 89A(1)(b)(iii)
- omit*
- all words from "an" to "Card"
- insert*
- a card mentioned in subparagraph (ii)

35 Part 14 inserted

After section 113

insert

Part 14 Transitional matters for Revenue Legislation Amendment Act 2018

114 Changes to resource interest provisions

- (1) Subject to subsections (2) and (3), the amendments made to this Act by the *Revenue Legislation Amendment Act 2018* apply in relation to any dutiable transaction that occurs on or after 1 May 2018.
- (2) Despite subsection (1), this Act, as in force immediately before 1 May 2018, continues to apply in relation to a dutiable transaction mentioned in subsection (1) that occurs on or after 1 May 2018, but before 1 July 2023, if the agreement in respect of the transaction, or the instrument effecting or evidencing the transaction, was first executed before 1 May 2018.
- (3) Despite subsection (1), the amendments made to this Act by the *Revenue Legislation Amendment Act 2018* apply in relation to a dutiable transaction mentioned in Schedule 2, item 23(a)(i), that occurs on or after 1 July 2018.

36 Schedule 2 amended (Exemptions from duty)

- (1) Schedule 2, items 9 and 12(c)
- omit (all references)*
- mining tenement
- insert*
- resource interest

(2) Schedule 2, item 13

omit

(3) Schedule 2, item 23(a)(i)

omit

Part 7 Amendment of Gaming Machine Regulations

37 Regulations amended

This Part amends the *Gaming Machine Regulations*.

38 Regulation 33 amended (Gaming machine tax (section 149(3) of the Act))

Regulation 33(a)(i) and (ii)

omit, insert

- (i) in respect of a month occurring in the period from 1 July 2018 to a date fixed by the Minister by *Gazette* notice – at the rate specified in Table A; and
- (ii) in respect of each month beginning on the day after the date fixed under subparagraph (i) and all subsequent months – at the rate specified in Table B; and

Part 8 Repeal of Act

39 Repeal of Act

This Act is repealed on 2 July 2019.